

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>6/9/2014</u>
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KATHERINE PRIESTLEY,

Petitioner,

Docket #:
13-cv-04755-PAE

-against-

PANMEDIX INC., PARMEDIX INC.
ELECTRONIC KNOWLEDGE PUBLISHING,
INC., COGNITION PHARMACEUTICALS, LLC
MCDONALD COMRIE, DAVID ERLANGER, PHILLIP
YEE, BALLON, STOLL, BADER & NADLER, PC,
HALKET WEITZ, CURTIS COMRIE, ROBERTA COMRIE,
MARY ERLANDER, DARIN KAPLAN, RICHARD PECK,
LINDA BIERER, TARA MACLEOD, MEL YIN HELLER, JOHN
THEODORACOPULOS, ALEXIS THEODORACOPULOS,
STEPHANIE PARK, NICOLE KAPLAN, LITTLE ROCK, LTD,
TANYA KAUSHIK, MABEL TRUESDELL, RELIDE REALTY,
DENLOW PRIVATE TRUSTCO, LTD, and ROSS YOUNGMAN,

JUDGMENT

Respondents.
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Petitioner, having commenced this Special Proceeding for a "turnover" of assets of Panmedix, Inc., a judgment debtor, and for "turnover" of assets of Cognition Pharmaceuticals, LLC, a judgment debtor of Panmedix, Inc., and for appointment of a receiver and other and related relief, pursuant to CPLR 5225, 5227 and 5228, including the setting aside as constructively and actually fraudulent of a certain "Security Agreement" dated as of August 24, 2009, ("Security Agreement") entered into by and between Panmedix Inc. and Respondents (except Cognition Pharmaceuticals, LLC), as a group, and to determine their respective priorities as to the assets of Panmedix, Inc., and the assets of Cognition Pharmaceuticals, LLC; and for a finding of fraud against the Respondents (except Cognition Pharmaceuticals, LLC, which is in default), and

Petitioner and Respondents (except Cognition Pharmaceuticals, LLC) having each moved this Court for summary judgment, and the cross motions having been orally argued and having

regularly come on to be heard, and the Court having rendered its Opinion and Order, in writing, dated May 1, 2014, finding constructive and actual intent to defraud, and that the Security Agreement, dated as of August 24, 2009, was from inception and is null and void and a fraudulent conveyance under New York State Debtor and Creditor Law §273-a and §276, and making other findings of fact as set forth therein, and granting Petitioner's motion for summary judgment in its entirety, and denying the motion for summary judgment by Respondents (except Cognition Pharmaceuticals, LLC), in its entirety.

NOW, UPON MOTION OF RUSS & RUSS, P.C., attorneys for the Petitioner, and Respondents (except Cognition Pharmaceuticals, LLC) who consent to the form of this Judgment, it is

ORDERED, ADJUDGED AND DECREED that the Security Agreement, dated as of August 24, 2009, between Panmedix, Inc. and Respondents (except Cognition Pharmaceuticals, LLC), is declared to be and is, from inception, null and void and a fraudulent conveyance as a result of constructive fraud (pursuant to New York State Debtor and Creditor Law §273-a) and actual fraud (pursuant to New York State Debtor and Creditor Law §276) and the rights of Petitioner in and to the assets of Panmedix, Inc., including its interests in the assets of Cognition Pharmaceuticals, LLC, are superior to, and have priority over, the rights, if any, of any of the Respondents over the assets of Panmedix, Inc. and Cognition Pharmaceuticals, LLC; and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix, Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for recordation in the US Patent Office, all of Panmedix' right, title and interest, in and to US Patent #7,087,015 (Issued Aug. 8, 2006), and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix, Inc. shall assign transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for recordation in the US Patent Office, all of Panmedix' right, title and interest, in and to US Patent #6,964,638 (Issued Nov. 15, 2005), and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix, Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for recordation in the US Patent Office, all of Panmedix' right, title and interest, in and to its ten (10%) percent interest in and to US Patent #6,828,351 (Issued December 7, 2004) of Cognition Pharmaceuticals, LLC, and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix, Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for recordation in the US Patent Office, all of Panmedix' right, title and interest, in and to its ten (10%) percent interest in and to US Patent #7,244,769 (Issued July 17, 2007) of Cognition Pharmaceuticals, LLC, and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix, Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for recordation in the US Patent Office, all of Panmedix' right, title and interest, in and to its ten (10%) percent interest in and to US Patent #7,619,005 (Issued November 17, 2009) of Cognition Pharmaceuticals, LLC, and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, all of Panmedix Inc.'s right, title and interest, in and to its arbitration award, dated August 23, 2011, against Cognition Pharmaceuticals, LLC (which was confirmed by the New York State Supreme Court, New York County), and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, for filing with the New York County Clerk, all of Panmedix Inc.'s right, title and interest in and to its money judgment dated March 13, 2012 in the original amount of \$108,931.14, with interest, against Cognition Pharmaceuticals, LLC, and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, all of its right, title and interest in and to its owned software code (with the understanding that Panmedix Inc. does not represent that the software has utility, or that it can support the software or software code), and that Panmedix Inc. transfer the owned software code to Petitioner in machine-readable form by copy in digital format to either a USB device or CD Rom disc or DVD disc and Panmedix shall retain a copy thereof and make use thereof solely to maintain the ongoing operation of its current systems, (Panmedix shall make no further copies of the software) and such software code shall not include software code owned by a third party and licensed by such third party to Panmedix, Inc., and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, all of its right, title and interest in and to its database (electronic files) of cognitive and any related test results, and that the data be first de-identify as may be required by applicable law to protect patient information and to otherwise comply with existing legal and regulatory requirements related to privacy and transfer of such data, and further, that the electronic data be transferred in machine-readable form, by copy in digital format to either a USB device or CD Rom disc or DVD disc; and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall assign, transfer and set over to Petitioner, by assignment form prepared by Petitioner's counsel, all of its right, title and

interest in and to and make available for retrieval at PanMedix's place of business the paper files of any test results as to drugs which were examined or tested for or at the request of Cognition Pharmaceuticals, LLC (or its predecessors in interest); and it is further

ORDERED, ADJUDGED AND DECREED that Panmedix Inc. shall advise Russ & Russ, PC, as attorneys for Petitioner, the Citibank account number and counsel for Petitioner shall write Citibank a letter to be countersigned by Panmedix, Inc.'s counsel to release to Petitioner the balance of a Panmedix Inc. Citibank N.A, Account that was previously restrained by Petitioner and that Panmedix Inc. receive credit upon any execution/levy in the future for said sum, and it is further

ORDERED, ADJUDGED AND DECREED that upon presentation of forms of assignment and transfer to counsel for Panmedix Inc. (with stated consideration of "one dollar and other valuable consideration, the receipt of which is hereby acknowledged"), Panmedix Inc. shall execute and deliver all such assignment and transfer forms with five business days of entry of this Judgment, and effectuate all such assignments and transfers, not later than the close of business 30 days after the entry of this Judgment; and it is further


ORDERED, that Petitioner is authorized to file a UCC-1 financing statement against PanMedix Inc. as to all of its assets, accounts receivable and after acquired property; and it is further

ORDERED, that Petitioner may apply for a Default Judgment against Cognition Pharmaceuticals, LLC, and remedies against them, by Order to Show Cause, and it is further

ORDERED, that the Court retains jurisdiction of this Special Proceeding for purposes of enforcement of this Order and addressing other issues that may arise consistent with the Court's Decision and Order, dated May 1, 2014.

On July 9, 2014, the Court will close this case unless there is a pending application for a Default Judgment against Cognition Pharmaceuticals, LLC, or some other indication from the parties that this case should remain open.

Dated: June 9, 2014
New York, New York

A handwritten signature in cursive script that reads "Paul A. Engelmayer". The signature is written in dark ink and is positioned above a horizontal line.

Honorable Paul A. Engelmayer
United States District Judge
Southern District of New York